

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ENERPOL, LLC,

Plaintiff,

v.

SCHLUMBERGER TECHNOLOGY
CORPORATION.

Defendant.

SCHLUMBERGER TECHNOLOGY
CORPORATION.

Counterclaim Plaintiff,

 \mathbf{v}_i

ENERPOL, LLC,

Counterclaim Defendant.

Civil Action No. 2:17-cv-394-JRG

JURY TRIAL DEMANDED

**DECLARATION OF GREGORY K. SOBOLSKI IN SUPPORT OF
SCHLUMBERGER TECHNOLOGY CORPORATION'S
OPPOSITION TO ENERPOL, LLC'S EMERGENCY MOTION TO STRIKE**

I, Gregory K. Sobolski, declare and state as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, would testify competently under oath.

2. I make this declaration in support of Schlumberger Technology Corporation's Opposition to EnerPol, LLC's Emergency Motion to Strike Portions of Schlumberger's Technology Tutorial and Claim Construction Briefing.

3. I am counsel of record for Schlumberger Technology Corporation (“Schlumberger”) in this action.

4. On January 16, 2018, I participated in a telephonic meet and confer along with my co-counsel, the Honorable T. John Ward of Ward, Smith, and Hill, PLLC, and David Zucker of Latham & Watkins LLP. Counsel for EnerPol, LLC (“EnerPol”) on the teleconference were William Davis of The Davis Firm, P.C. and Mathias Samuel, Robert Courtney, and Nikita Gupta Fiorella of Fish & Richardson P.C.

5. On that teleconference, the parties discussed the statement regarding “phase” contained in Schlumberger’s Technology Tutorial. Counsel for Schlumberger stated that Schlumberger intends to advance the claim construction proposals disclosed in its P.R. 4-2 and Joint Claim Construction (P.R. 4-3) submissions.

6. Counsel for Schlumberger suggested that EnerPol’s motion to strike portions of Schlumberger’s Technology Tutorial and claim construction briefing would be more appropriately filed after Schlumberger had filed its brief. EnerPol refused this suggestion.

7. Counsel for Schlumberger also explained that the discussion of “phase” in its Tutorial reflects the definition of “phase” that appears in two technical dictionaries disclosed in Schlumberger’s P.R. 4-2 and P.R. 4-3 submissions. Counsel for Schlumberger also explained that at least five of the technical dictionaries that EnerPol disclosed in its claim construction submissions contained substantially similar definitions of “phase.”

8. Counsel for EnerPol requested that Schlumberger provide a “commitment in writing” that its responsive claim construction brief would not contain any argument that the word “phase” has the meaning discussed in Schlumberger’s tutorial.

9. On the same teleconference, Schlumberger’s counsel stated its view that EnerPol’s technology tutorial is improper because it illustrates the “polymer-continuous liquid phase” limitation of claim 1 using what appears to be an image of Schlumberger’s own

illustration of one of the accused products in this case, but without attributing the source of the original image. Hours later, I asked counsel for EnerPol whether it would voluntarily amend its tutorial to attribute the image. EnerPol refused.

10. Attached as Exhibit 1 is a true and correct copy of Schlumberger Technology Corporation's Preliminary Proposed Constructions and Identification of Extrinsic Evidence Pursuant to P.R. 4-2, exchanged with EnerPol's counsel on November 8, 2017.

11. Attached as Exhibit 2 is a true and correct copy of the Joint Claim Construction and Prehearing Statement submitted jointly to the Court by EnerPol and Schlumberger on November 29, 2017. (D.I. 73.)

12. Attached as Exhibit 3 is a true and correct excerpt of *A Dictionary of Chemistry*, 3rd Ed. (1996), as produced by Schlumberger on November 8, 2017 at Bates range SLB00014910-12.

13. Attached as Exhibit 4 is a true and correct excerpt of *McGraw-Hill Dictionary of Chemistry*, 2nd Ed. (2003), as produced by Schlumberger on November 8, 2017 at Bates range SLB00014913-15.

14. Attached as Exhibit 5 is a true and correct excerpt of the entry for "phase" in *McGraw-Hill Dictionary of Scientific and Technical Terms*, 2nd Ed. (1978). EnerPol's P.R. 4-2 and 4-3 submissions disclose this reference, in connection with its definition of another word.

15. Attached as Exhibit 6 is a true and correct excerpt of the entry for "phase" in *McGraw-Hill Dictionary of Scientific and Technical Terms*, 5th Ed. (1994). EnerPol's P.R. 4-2 and 4-3 submissions disclose this reference, in connection with its definition of another word.

16. Attached as Exhibit 7 is a true and correct excerpt of the entry for “phase” in *Academic Press Dictionary of Science and Technology* (1992). EnerPol’s P.R. 4-2 and 4-3 submissions disclose this reference, in connection with its definition of another word.

17. Attached as Exhibit 8 is a true and correct excerpt of the entry for “phase” in *Chambers Dictionary of Science and Technology* (1999). EnerPol’s P.R. 4-2 and 4-3 submissions disclose this reference, in connection with its definition of another word.

18. Attached as Exhibit 9 is a true and correct excerpt of the entry for “phase” in *ASTM Dictionary of Engineering Science and Technology*. EnerPol’s P.R. 4-2 and 4-3 submissions disclose this reference, in connection with its definition of another word.

19. Attached as Exhibit 10 is a true and correct copy of an email dated January 17, 2018 from Gregory Sobolski to Robert Courtney, William Davis, Mathias Samuel, Conrad Gosen, Janette Riebe, Ruffin Cordell, and The Honorable Leonard Davis regarding the parties’ meet and confer.

20. Attached as Exhibit 11 is a true and correct copy of an email dated January 16, 2018 from Robert Courtney to Maximilian Grant, Gregory Sobolski, and David Zucker requesting a meet-and-confer.

21. Attached as Exhibit 12 is a true and correct copy of an email dated January 16, 2018 from Robert Courtney to Maximilian Grant, Gregory Sobolski, and David Zucker indicating for the first time EnerPol’s intent to file its motion on an emergency basis.

22. Attached as Exhibit 13 is a true and correct copy of an email dated January 17, 2018 from Robert Courtney to Gregory Sobolski, William Davis, Mathias Samuel, Conrad Gosen, and Janette Riebe regarding the parties’ meet and confer.

I declare under penalty of perjury under the Laws of the United States of America that the foregoing is true and correct.

Dated: January 19, 2018

/s/ Gregory K. Sobolski

Gregory K. Sobolski